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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT

IN AND FOR PALM BEACH COUNTY, FLORIDA

Ralph and Marguerite McCormack,

Civil Division:

Case Number:

Plaintiff(s),

v.

Edward Paige.,

Defendant(s).

COMPLAINT

COMES NOW, Plaintiff, Ralph and Marguerite McCormack, by and through their undersigned counsel and hereby sues Defendant, Edward Paige, and for their cause of action alleges as follows:

1. This is a civil action and is meant to create civil liability for criminal practices that are in direct violations of §812.012-812.037 or §825.103(1) of the Florida Statutes (i.e. crimes of theft, robbery, and exploitation of elderly persons) for theft, fraud and exploitation, along with damages which exceed \$15,000.00.
2. Service of process on and personal jurisdiction over defendant Edward Paige as a non-resident of the county of Palm Beach is authorized by §48.193(1)(b) of the Florida Statutes because the causes of action sued on in this complaint arose from her commission of a tortious act within Florida.
3. Venue for this action is properly laid in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida Statute §47.011 states "Actions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located. Furthermore §47.041 states that "actions on several causes of action may be brought in any county where any of the causes of action arose". Because the tort occurred in Palm Beach County Plaintiff's believe venue is proper.

4. At the time of the material hereto, Ralph and Marguerite McCormack (hereinafter "Plaintiff") are residents of Palm Beach County Florida.
5. At this time, we are unable to locate Edward Paige (hereinafter "Defendant") however, we do believe he is still residing in the State of Florida but cannot confirm his exact whereabouts. We believe him to be a black man, in his late fifties, about 180lbs, approximately 6feet tall with short cropped hair. He last resided in Palm Beach County Florida. His exact whereabouts are currently unknown to the Plaintiffs.
6. That all conditions precedent to this action have been performed, have occurred, or have been waived.

#### COUNT I

7. That the Defendant and or his agents knowingly and willfully deprived the Plaintiffs of their right of property in or use or possession of a chattel or other interference there without the Plaintiff's consent and without lawful justification and unreasonably withheld possession from the Plaintiffs who had the right to it.

#### COUNT II

8. That the Defendant and or his agent stood in a position of trust and confidence with the Plaintiff's and knowingly, by deception or intimidation, obtained or used, or endeavored to obtain or use, or was unauthorized to take Plaintiffs' property with the intent to temporarily or permanently deprive Plaintiff of the use, benefit, or possession of the property for the benefit of the Defendant and or his agents

#### COUNT III

9. That the Defendant and or his agents, knowingly obtained or uses, ... the property of Plaintiff's with intent to, either temporarily or permanently: (a) Deprive the Plaintiffs of a right to the property or a benefit from the property and (b) Appropriate the property to Defendant's own use or to the use of any person not entitled to the use of the property.

#### COUNT IV

10. That the Defendant and or his agents, willfully, maliciously inflicted emotion distress upon the Plaintiffs', without just cause with the intent of harming the Plaintiff's and as a

direct and proximate cause of Defendant and or his agent's actions, the Plaintiffs were in fact irreparably harmed by the Defendant or his agent's.

#### FACTUAL PATTERN

11. On or about August 2017, Defendant Edward Paige befriended the Plaintiff's and moved them from New York down to their new residence Palm Beach County, Florida.
12. Shortly thereafter the McCormack home began to have problems with the plumbing and a massive water leak occurred. The Defendant began hiring random people to try and "help" the Plaintiffs with the damage that had resulted. He began hiring inexperienced workers and paying them exuberant amounts of money with the Plaintiffs' funds.
13. The damage got so extensive that Defendant advised the Plaintiffs to place all of their valuables in two (2) storage PODS for safe keeping so that the continued water damage would not destroy their personal belongings.
14. Once the PODS were packed with the belongings of the Plaintiffs the Defendant had them removed from the Plaintiff's homestead property without their knowledge or consent.
15. Plaintiffs have reason to believe that Defendant removed the PODS and had them transported to Tampa at a PODS warehouse
16. Plaintiffs have tried to track down the defendant with no prevail. All of their belongings have been taken from them without their permission and recently Plaintiffs had to move into an Assisted Living Facility as their home remains uninhabitable.

#### ARGUMENT

17. Civil theft claims can be asserted by individuals and businesses alike, and are meant to create civil liability for criminal practices that are violations of §812.012-812.037 or §825.103(1) of the Florida Statutes (i.e. crimes of theft, robbery, and exploitation of elderly persons). When Defendant knowingly deprived the Plaintiffs of their personal possessions and removed them from their homestead premises without their permission he committed a civil theft, a tortuous act under the Florida statutes.
18. Civil theft, section 772.11(1), Florida Statutes, provides a cause of action for treble damages and for reasonable attorney's fees for "[a]ny person who proves by clear and convincing evidence that he or she has been injured in any fashion by reason of any

violation of [section 812.014]." Section 812.014, itself, is a criminal theft statute. While the civil remedy set forth in section 772.11(1) only requires a "clear and convincing" evidence standard, the underlying cause of action is predicated on conduct that violates a criminal statute. See Gasparini v. Pordomingo, 972 So. 2d 1053, 1056 (Fla. 3d DCA 2008) ("To establish a claim for civil theft, a party must prove that a conversion has taken place and that the accused party acted with criminal intent."). It is clear that Defendant Paige acted with criminal intent when he removed the Plaintiffs personal property from the Plaintiffs residence without their consent or knowledge.

19. Within the meaning of section 812.014 [Florida Statutes], Defendant knowingly obtained or used or endeavored to obtain or use the property of Plaintiff solely for his benefit with felonious intent to either temporarily or permanently deprive Plaintiff of his right to or benefit to the said property unbeknownst to Plaintiff. Defendant has the property in his control and has removed said property from the Plaintiffs Homestead premises when the Defendant had any no lawful right to retain, attempt to retain, endeavor to use or use the said personal property.
20. Florida law defines conversion as "an unauthorized act which deprives another of his property permanently or for an indefinite time." Senfeld v. Bank of Nova Scotia Trust Co. (Cayman) Ltd., 450 So.2d 1157, 1160-61 (Fla. 3d DCA 1984). To prove a conversion claim, a plaintiff must show "ownership of the subject property and ... that the other party wrongfully asserted dominion over that property." Mattocks v. Black Entm't Television, 43 F.Supp.3d 1311, 2014 WL 4101594 (S.D.Fla.2014). Likewise, "the plaintiff must show evidence of damage, not just liability." Regions Bank v. Maroone Chevrolet, LLC, 118 So.3d 251, 257 (Fla. 3d DCA 2013). Moreover, "where a person having a right to possession of property makes demand for its return and the property is not relinquished, a conversion has occurred." *Id.* at 1161. In the instant case at hand Plaintiff have been clearly deprived of their property by the Defendant.
21. Section 825.103(1), Florida Statutes (1999), sets forth two separate ways in which the crime of exploitation of the elderly may be committed:(1) "Exploitation of an elderly person or disabled adult" means: (a) Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly

person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who: 1. Stands in a position of trust and confidence with the elderly person or disabled adult; (b) Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent. It is clear the Defendant was in a position of trust with the Plaintiffs. They have no children and no other family. Defendant befriended them, made them believe he was there to assist them and in return took advantage of their vulnerability. They regarded him as their savior as he helped them move down to Florida and continued to help them when they were facing turmoil with their home, yet he deprived them of all their possessions. He clearly exploited their vulnerability. He saw two elderly people with failing health and mental ability, with no family that could easily be convinced to fall prey to his charm.

22. All of the aforementioned damages are permanent and continuing in nature.

WHEREFORE, Plaintiff Ralph and Marguerite McCormack sues Defendant, Edward Paige for damages exceeding \$15,000.00 plus legal costs and demands trial by jury or any relief this court deems just and proper.

Dated April 19, 2018.

s/Lisa Kline Goldstein  
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